

February 11, 2010

Office of the City Attorney
Roger A. Lubovich, City Attorney

Tel 360-473-2345
Fax 360-473-5161
345 6th Street, Suite 600
Bremerton, WA 98337-1873

CONFIDENTIAL SETTLEMENT COMMUNICATIONS
SUBJECT TO ER 408

VIA EMAIL AND U.S. MAIL

Mr. Chris Wion
Danielson Harrigan Leyh & Tollefson LLP
999 Third Ave., Suite 4400
Seattle, WA 98104

Re: *Bremerton v. Sesko*

Dear Chris:

I am in receipt of your letter dated February 3, 2010. Thank you. As we discussed in our telephone conversation yesterday, the City disagrees with your legal arguments regarding the utility charges, the City's liability for any encroachment onto the Sesko Family Trust's Gorst property, and the viability of the City's 2007 lawsuit against Ms. Sesko. I will not repeat the City's position in this letter.

As we discussed yesterday, the City rejects Ms. Sesko's offer of settlement proposed in your February 3, 2010 letter. However, the City offers a counter-proposal that would resolve outstanding legal issues between Ms. Sesko and the City.

The City would agree to a settlement on the following terms:

- Ms. Sesko will make a payment to the City in the amount of \$300,000;
- Ms. Sesko and the Sesko Family Trust will release the City from all claims associated with the City's alleged encroachment on the Gorst property and convey a stormwater utility easement to the City;
- The City will file a Satisfaction of Judgment in Case No. 97-2-01749-3 and agree to release Ms. Sesko from any further liability associated with the action;
- The City will reduce the outstanding balance of the utility charges at (b) (6) (\$58,825.12 as of 2/1/2010) to \$0;
- The City will reevaluate the stormwater charges after Ms. Sesko removes the items subject to the pending lawsuit (Case No. 07-2-01698-0);
- Ms. Sesko will remove the necessary items from the Arsenal Way property in order to bring the property into compliance with the Bremerton Municipal Code; the City will work with Ms. Sesko in good faith to identify the items that must be removed;

February 11, 2010

- Ms. Sesko will dismiss her lawsuit against the City in the United States District Court, Western District of Washington, Case No. C04-5081RBL.

As we discussed yesterday, any tentative settlement agreement reached between the City and Ms. Sesko would require the approval of the City Council. The next council meeting where the Council will take action is February 17, 2010. Please respond to the City's offer by 4:30 p.m. on February 17, 2010.

Thank you.

Sincerely,

Mark E. Koontz

Enclosure